

# United States District Court District of Massachusetts

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UNITED STATES OF AMERICA,

v.

MAGISTRATE JUDGE'S DOCKET  
NO. 05M0408RBC

JOSE RODRIGUES DE REZENDE,  
Defendant.

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## ***ORDER OF DETENTION PENDING TRIAL***

**COLLINGS, U.S.M.J.**

In accordance with the Bail Reform Act, 18 U.S.C. §3142(f), a detention hearing has concluded that the following facts require the detention of the defendant pending trial in the

### **Part I - Findings of Fact**

- \_\_\_ (1) The defendant is charged with an offense described in 18 U.S.C. §3142(f)(1) and has been convicted of a (federal offense)(state or local offense that would have been a federal offense if a circumstance giving rise to federal jurisdiction had existed) that is
- \_\_\_ a crime of violence as defined in 18 U.S.C. §3156(a)(4).
- \_\_\_ an offense for which the maximum sentence is life imprisonment or death.
- \_\_\_ an offense for which a maximum term of imprisonment of ten years or more is prescribed in the Controlled Substances Act, the Controlled Substances Export Act, or the Maritime Drug Enforcement Act.
- \_\_\_ a felony that was committed after the defendant had been convicted of one or more prior federal offenses described in 18 U.S.C. §3142(f)(1)(A)-(C), or comparable state or local offenses.
- \_\_\_ (2) The offense described in finding (1) was committed while the defendant was on release pending trial for a federal, state or local offense.
- \_\_\_ (3) A period of not more than five years has elapsed since the (date of conviction or release of the defendant from imprisonment) for the offense described in finding (1).
- \_\_\_ (4) Findings Nos (1), (2) and (3) establish a rebuttable presumption that no conditions of release will assure the appearance of the defendant at trial.

combination of conditions will reasonable assure the safety of (an)other person or community. I further find that the defendant has not rebutted this presumption.

### **Alternative Findings (A)**

- \_\_\_\_ (1) There is probable cause to believe that the defendant has committed an offense for which a maximum term of imprisonment of ten years or more is provided by the Controlled Substances Act under 18 U.S.C. §924(c).
- \_\_\_\_ (2) The defendant has not rebutted the presumption established by finding 1 that a combination of conditions will reasonably assure the safety of the community.

### **Alternative Findings (B)**

- X (1) There is a serious risk that the defendant will not appear.
- \_\_\_\_ (2) There is a serious risk that the defendant will endanger the safety of another person or the community if released.

### **Part II - Written Statement of Reasons for Detention**

The defendant is a 34 year-old citizen of Brazil. He was smuggled into the United States over the Mexican border about a year and a half ago; he paid a fee to be smuggled. He is an illegal alien; he has been illegally working in this country. He has no ties to the United States; his wife and child are in Brazil. The defendant will be deported after these proceedings are completed, whether or not he is found guilty. In these circumstances, the incentive either to return to Brazil or to go to another location in this country and find new (illegal) employment is overwhelming. I find no conditions or combination of conditions which will reasonably assure the defendant's appearance.

### **Part III - Directions Regarding Detention**

The defendant is committed to the custody of the Attorney General or his designated representative for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal. The defendant shall be afforded a reasonable opportunity for private consultation with defense counsel. On order of a court of the United States or on request of an attorney for the Government, the person in charge of the corrections facility shall deliver the defendant to the United States marshal for the purpose of an appearance in connection with a court proceeding.

*/s/ Robert B. Collings*

ROBERT B. COLLINGS  
United States Magistrate Judge

Dated: February 24, 2005.